



JOSE HUIZAR
COUNCILMEMBER, 14TH DISTRICT

Industrial Service Oil Company Appeal
Mohinder S. Sandhu, P.E., Chief
Standardized Permit and Corrective Action Branch
Department of Toxic Substances Control
8800 Cal Center Drive, MS R1-2
Sacramento, CA 95826

October 23, 2006

Dear Mr. Sandhu:

Pursuant to Department of Toxic Substances Control (DTSC) regulation, I hereby submit written arguments in response to appeal comments granted review under the June 29, 2007 DTSC Order Number HWCA 06/07-P003 regarding the Industrial Service Oil Company (ISOCI) at 1700 S. Soto Street, Los Angeles 90023.

My written arguments to support or oppose accepted appeal comments are accompanied by supporting statements of reasons and meet the content and filing requirements set forth by DTSC in the briefing memo.

Please note, **I hereby request that DTSC conduct a Public Hearing / Appeals Conference to consider these comments and and/all others submitted to DTSC during the briefing period for review.** I request that this Appeals Conference be held by DTSC in the Los Angeles 14th Council District community of Boyle Heights during EVENING hours. I further request that any / all materials be translated and available for the community in both English and Spanish and that simultaneous Spanish interpretation be provided at the Appeals Conference.

Thank you for your consideration of these important concerns. If you should you have questions or require further information, please contact my Planning & Economic Development Director, Jessica Wethington McLean at Jessica.WethingtonMcLean@lacity.org or 213-473-7014.

Sincerely,

//original signed by//

José Huizar, Councilmember
14th District

Comment 3-4 by ISOCI: *Special Condition 2(u) on page 57 of the Final Permit states, as a new condition, that "the permit for the proposed units shall not become effective until the applicant is granted a local land used (sic) permit." It is clearly erroneous for DTSC to impose land use conditions which are not within DTSC's statutory jurisdiction, and this statement should be stricken from the permit. The first part of the Special Condition, stating that ISOCI shall not begin construction without the required local permits is sufficient to ensure that ISOCI will obtain land use permits as necessary and required by local laws and regulations. ISOCI, located within an M3 "heavy industrial" zone, is permitted by right to conduct various existing and proposed activities.*

POSITION: I strongly OPPOSE this appeal by ISOCI. This appeal comment should be denied. Indeed, as evidenced below, DTSC has grounds to REVOKE the pending DTSC permit, which I urge DTSC to do. If not revoked altogether, this section of the permit should NOT be amended and should be fully enforced as written for these reasons:

SUPPORTING STATEMENT OF REASONS:

- The City of Los Angeles has made it clear repeatedly to the applicant ISOCI that the proposed construction/ operation/ expansion of this facility will require local land use permits. **DTSC has rightfully agreed and should not amend its correct position.**
- In a letter dated January 19, 2007 (attached), Los Angeles Zoning Administrator Michael LoGrande indicates that ISOCI has not received a discretionary land use approval as required by Section 25199 of the California Health and Safety Code, thereby making the project subject to a local land use agency decision, pursuant to Section 25199.7 of the Health and Safety Code and Section 12.24-U.10 of the Los Angeles Municipal Code.
- In a letter dated October 15, 2007 (attached), Hector Buitrago on behalf of the Department of Building and Safety of the City of Los Angeles further clarifies the requirements in the Planning and Zoning Code with which this facility must comply, as follows:

Section 12.24.U10 of the Planning and Zoning Code requires Conditional Use approval by the City of Los Angeles Planning Commission for Hazardous Waste Facilities in the M2 and M3 Zones where the principal use of the land is for the storage and/or treatment of hazardous waste as defined in Section 25117.1 of the California Health and Safety Code. Approval by the State of California Department of Toxic Substances Control (DTSC) will not affect required compliance with the City's zoning laws or the City's authority to enforce its laws.

Further, Section 12.26 requires a building permit and a Certificate of Occupancy issued by this Department before land is used or occupied or a building is built or altered. No permit pertaining to the use of land or buildings shall be issued unless the application for the permit has been approved by the Department of Building and Safety as to conformance of said use with the provisions of the Planning and Zoning Code. This can only occur after the Planning Commission has granted a Conditional Use approval.

- The applicant has a history of attempts to usurp local land use authority, and has acted in bad faith against the people of the City of Los Angeles in avoiding the Tanner Act process which would allow for considerable local input on the ISOCI proposal. (The Tanner Act is found at Health and Safety Code sections 25199-25199.14. Government Code section 65920 et seq. refers to the Permit Streamlining Act [related to the definition of a “land use decision” subject to the Tanner Act].)
- Health & Safety Code Section 25199.7 states “A notice of Intent filed with a local agency shall be accompanied by a fee which shall be set by the local agency in an amount equal to the local agency's cost of processing the notice of intent and carrying out the notification requirements of this subdivision. **A notice of intent is not transferable to another location other than the location specified in the notice and shall remain in effect for one year from the date it is filed with a local agency**, or until it is withdrawn by the proponent, whichever is earlier.”
- In the FINAL ENVIRONMENTAL IMPACT REPORT dated December 2006, which was used to evaluate the issuance of the DTSC permit, section 3.7.4.2 of the report under “Conflict with Applicable Plans, Policies, or Land Use Regulations” indicates ISOCI has submitted a Notice of Intent. **This is an erroneous statement of fact, and this erroneous statement of fact was used to evaluate this section of the permit pertaining to local permits.**
- In December 1995, ISOCI was represented in a letter from JRJ Associates to the then-Deputy Director of the City of Los Angeles Department of City Planning. The letter incorporated a Notice of Intent to apply for a specified hazardous waste project under California Health and Safety Code Section 25199.7. (Health and Safety Code section 25199.7(d) states the legislative body of the affected local agency [the City Council] shall appoint the LAC “any time after the notice of intent is filed with the local agency but shall be appointed not later than 30 days after the application for the land use decision is accepted as complete by the local agency.”)
- ISOCI filed a conditional use permit application to modernize its facility on August 1, 1996, under City Plan Case number 1996-0288-CU. However, no action was taken by the applicant subsequent to a Planning Department letter dated March 12, 1997 advising that a radius map and notification list would be required in accordance with Department policy. In a final written communication dated Dec. 20, 2004, the 1996 case was terminated and the Planning Department informed the applicant that it

would be necessary to file a new application and pay the required fees to pursue the matter in the future.

- Furthermore, the 1996 ISOCI application did not include the additional 2.64 acre parcel which ISOCI acquired in 2003, located south of the existing 2.2 acre parcel. Therefore, per Health and Safety Code section 25199.7, which states “*A notice of intent is not transferable to a location other than the specific location specified in the notice...*” even if the application had not been terminated due to the applicant's lack of response, **the previously filed Notice of Intent is invalid** for the currently proposed expansion, which is proposed to span both parcels.
- In the Hazardous Waste Facility Permit, Attachment “A”, Part III GENERAL CONDITIONS Section 2 (f) DTSC states “*failure to submit any information required in connection with the Permit, or falsification and / or misrepresentation of any submitted information, is grounds for revocation of this Permit.*” (Cal. Code Regs., title 22 section 62270.43.)
- Under the Local Approvals Section, used to evaluate the issuance of this DTSC permit, ISOCI indicates it **will “apply for a Conditional Use Permit prior to completion of the EIR.”** However, ISOCI did NOT apply for its local land use permit before the completion of the EIR which I am significantly persuaded is an attempt to rob the people of Los Angeles from full and fair participation in reviewing and advising on the terms of the permit through a Local Assessment Committee (LAC).
- The EIR process has already been conducted and the applicant has failed to file a valid Notice of Intent to apply to the City of Los Angeles for any conditional use permit for the relevant operation and /or expansion of their facility.
- The fact that ISOCI very clearly states in their Project Description that it **will “apply for a Conditional Use Permit prior to completion of the EIR”** should suffice to show the ISOCI intended to misrepresent itself and its intentions to the DTSC, the City of Los Angeles and the people of the 14th Council District, and therefore DTSC has grounds to REVOKE the pending permit and DTSC should act accordingly.
- **More than 11 years has passed since the ISOCI filed its (now terminated) notice of intent to apply for a City of Los Angeles Conditional Use Permit which was never acted upon and was deemed terminated.**
- Therefore, the City of Los Angeles is not now, nor has it been for the past decade, in the position to initiate an LAC under the Tanner Act, which in turn means the people of our City have not had the fullest opportunity to comment on the parameters of the permit and be a part of developing potential mitigation measures and conditions thereto.

- ISOCI attempts to justify its position that local permits are not required by stating that the use is located in a heavy manufacturing zone (M3) and is therefore allowed by right. This is inaccurate because a conditional use permit is required for this type of facility in the City of Los Angeles.
- On Page 34 of the Final Health Risk Assessment, dated December 2006, which was used to evaluate the issuance of this DTSC permit, Environmental Audit, Inc indicates: *“Uncertainties regarding the current and future land use of the site are expected to be minimal, since the area surrounding the ISOCI facility is expected to remain industrial. Encroachment by residential towards to ISOCI facility is expected to be limited to the Sears Building site at the corner of Olympic Boulevard and Soto.”*
- This statement makes presumptions for the City of Los Angeles and the Community Redevelopment Agency about future land uses in an area that has been clearly identified in public policy for redevelopment and which is currently undergoing a complete overhaul of its Community Plan.
- Similarly, the ISOCI appeal statement assumes the current M3 zoning will continue in perpetuity. In fact, the Boyle Heights Community Plan (a regulatory section of the Los Angeles Generalized Zoning Plan) within which this parcel is located, is currently being rewritten and updated and this facility is directly adjacent to the Los Angeles River, the subject of a recently introduced Master Plan.
- The updated Community Plan will incorporate opportunities for redevelopment and revitalization, transit-oriented development and industrial / residential mixed use, and significant incorporation of the recently introduced Los Angeles River Master Plan.
- The Los Angeles River Master Plan will revitalize the Los Angeles River, offer connectivity and access from communities all along the historic water channel and provide opportunities to reassess zoning and planning needs in areas near and adjacent to the River.
- It is possible the zoning on any parcel within the Plan Area could be changed to meet future land use objectives within the rewritten Boyle Heights Community Plan and / or Los Angeles River Master Plan.
- Additionally, since the time of ISOCI’s initial application to DTSC, the City of Los Angeles has created the Community Redevelopment Agency (CRA) Eastside Adelante Project Area which encompasses the subject property.
- Per Redevelopment Plan Section 408.4 p. 15 *“All development plans (whether public or private) shall be submitted to the Agency for approval and architectural review. All development in the Project Area must conform to this Plan, applicable*

design guidelines and all applicable federal, State and local laws, and must receive approval of the appropriate public agencies.”

- The CRA has not had the opportunity to review the development plan concerning the Project Area, but has indicated to me that the proposed expansion of the ISOCI facility conflicts with a number of the goals, objectives and specific requirements of the Redevelopment Plan, especially in terms of the agency's mission to improve the quality of the environment, which includes an emphasis on industrial uses that are environmentally safe.

For these reasons, it is an absolute necessity for ISOCI to seek and obtain City of Los Angeles land use permits before the DTSC permit is effective to ensure regulatory and policy compliance on the local level.

It is also clear that there are local land use policy considerations at hand which were not known at the time of DTSC's original determination on this permit, which should now be considered.

This section of the appeal should NOT be granted and the permit provisions should be fully enforced by DTSC as they will be by the City of Los Angeles.

COMMENT 1-7 by CBE (Rail Car Storage Containment): *The permit allows ISOCI to store up to 250,000 gallons of hazardous waste in rail cars for up to one year on a rail spur without adequate secondary containment. Storage of this amount of hazardous waste for such an extended period of time is unprecedented in California, posing severe risks to the surrounding communities that have not been properly analyzed.*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then secondary containment measures of considerable scope should be required with review and enforcement in concert with the City of Los Angeles.
- Boyle Heights is a neighborhood rich in history and culture, as the homesite for generations of immigrant populations, and the birthplace of national leaders.
- Population and housing resources in the area are significant, with a number of apartment and housing units located only .25 miles away from the project site on Olympic Boulevard, north of the project site. Future housing and residential uses, including the adaptive re-use of the 1929 Sears building, as identified by the

Community Redevelopment Agency as a target site for residential / mixed-use development.

- Additionally there are more than a dozen schools within a one-mile radius, along with places of worship, and a number of public facilities.
- Concerns about the environmental health and safety of residents have not been properly evaluated and are of great concern to the community and the City of Los Angeles.
- The spill pan system does not have sufficient capacity to contain a catastrophic release from the rail cars, which could occur from earthquake, derailment, chemical reaction, terrorism or vandalism which can cause a rail car to tip over, rupture or explode.
- The proposed containment system relies on two pumps that can malfunction or lose power in the event of an accident.
- Deepening my concerns about exposing the Boyle Heights Community to severe risks, is the fact that ISOCI has a record of non-compliance, citations and spills associated with its current use. Allowing this use to expand to a degree unprecedented throughout the state poses a serious health and safety threat that is unacceptable.
- A hazardous waste spill or associated incident could be devastating to the Boyle Heights community and indeed the region by nature of its impact on the Los Angeles River, adjacent residential and commercial corridors.
- As mentioned above, the Los Angeles River, through the LA River Master Plan, will undergo a tremendous revitalization in the next decades, represented by many millions of dollars of funding to reinvigorate the river's corridors, encourage connectivity, open space and utilization of river resources.
- An environmental disaster at this location could also create an unprecedented and unmanageable demand on the resources of the City of Los Angeles' life safety services.
- Title 22 of the California Code of Regulations Section 66264.51 - 66264.56 requires a Contingency Plan and Emergency Response Procedures. The ISOCI emergency response protocol as outlined in its Project Description includes emergency response service from the Los Angeles Police Department and Los Angeles Fire Department.
- LAFD Fire Stations # 17, 14, 25 and 4 are listed as the relevant emergency responders for the ISOCI facility and the Hollenbeck Police Station is listed for the

LAPD. Indeed, the City of Los Angeles would most certainly be required to provide the first and most critical responders in the event of a spill or serious accident.

- In fact in its own RESPONSE TO COMMENTS FINAL ENVIRONMENTAL IMPACT REPORT dated December 2006, on page 195, which was used to evaluate the issuance of the DTSC permit, in response to a comment raising the concern about an evacuation procedure and timing for the safe evacuation of nearby schools, businesses and residents in the event of a spill, the DTSC offers response 17-2 which indicates evacuation plans are outside the scope of the DTSC's jurisdiction and directs the concerned commenter to contact the Los Angeles Fire Department for further information.
 - The DTSC acknowledges that the expanded facility could experience one truck spill every six years. The same could easily be true for hazardous waste stored for long period of times on rail spurs without secondary containment measures.
 - During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.
 - Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
 - With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner. The idea that they should be allowed storage of a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents for a longer time than is considered normal throughout the state is unacceptable.
 - The lack of adequate secondary containment measures is also unacceptable.
 - DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion.
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COMMENT 1-9 by CBE (Waste Analysis Plan): *The facility's Waste Analysis Plan (WAP) is complex and difficult to understand, and will be challenging to implement even with highly educated and trained personnel. CBE requested that personnel performing the WAP tasks have proper education and training. Figure 111-2 of the WAP which refers to a flow chart for waste receiving procedures was not included in this version of the WAP. DTSC did not explain how this objective has been met. The WAP included in the Part B application is dated June 2004. There is no indication that DTSC has required ISOCI to revise the WAP to reflect that waste analysis tasks will always be performed by trained personnel, or to require that ISOCI document that all personnel have received appropriate training. The WAP is unclear as to which analyses will be performed in-house by ISOCI rather than by outside laboratory services and the WAP should be revised to clarify this issue.*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then ALL waste analysis should be conducted by outside laboratory services to ensure regulatory compliance and protect the environmental security of the community surrounding this facility.
 - ISOCI has a track record of non-compliance and should be required to have all analysis conducted by an independent laboratory to ensure compliance.
 - During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.
 - Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
 - With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner, much less a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents.
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COMMENT 1-1 I by CBE (Waste Analysis Plan): *The frequency and methodology of "fingerprint testing" for incoming hazardous waste streams should be clarified. DTSC has not stated whether ISOCI has determined if adequate laboratory methodologies are available to quantify all the chemicals listed on Table III of the application. No specific analysis for hexavalent chromium is required even though there is a specific regulatory threshold level for this chemical in 22 CCR § 66261.24.*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then adequate laboratory methodologies must be available to quantify all the chemicals listed on Table III of the application, including hexavalent chromium, a chemical contaminant which is known to be a hazardous, cancer-causing agent.
- Concerns about the environmental health and safety of residents must take precedence in this and all considerations regarding the proposed ISOCI permit.

COMMENT 1-12 by CBE (Waste Analysis Plan): DTSC has not identified the adequacy of the detection limits for Polychlorinated Biphenyls (PCBs) and it is unclear why the facility will be allowed to process wastes that contain PCBs with concentrations up to 49ppm [parts per million].

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then adequate detection limits **MUST** be set with safe ppm concentration limits, and these limits must be enforced to protect the environmental health and safety of residents to reduce exposure and limit consequences of contamination.
 - DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion.
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COMMENT 1-13 by CBE (Waste Analysis Plan): *Current operations test for PCBs after commingling, which conflicts with a requirement of the permit, which requires testing before commingling of the waste oil. Conditions to ensure that dilution does not occur should be imposed by DTSC if the facility submits a permit modification request to modify the WAP. DTSC must amend the permit to ensure that PCBs are not introduced or discharged from the facility's wastewater treatment unit*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then testing **MUST** be done before commingling of the waste oil and enforceable conditions must be in place to ensure that dilution does not occur and Polychlorinated Biphenyls (PCBs) are not introduced or discharged from the facility's wastewater treatment unit.
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River. Mismanagement of chemicals or potential introduction or discharge of PCBs from the wastewater treatment unit could have a devastating impact on the community and the region.

COMMENT 1-1 6 by CBE (Acceptance of Reactive Hazardous Waste): *Language ensuring that ISOCI will analyze each shipment of bulk waste for the characteristic of reactivity must be added to both the WAP and to Permit special condition 2.q.*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then each shipment of bulk waste **MUST** be tested for reactivity.
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River and mismanagement of chemicals or a potential reactive spill or accident could have a devastating impact on the community and the region.
- ISOCI has a track record of non-compliance, making the monitoring of ALL shipments for reactivity even more important.
- During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air

emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.

- Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
- With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner, much less a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents, and which could cause a chemically reactionary incident.

COMMENT 1-20 by CBE (Truck Loading and Unloading Activities): *DTSC must clarify exactly which hazardous waste management activities will be taking place in the "Truck Loading/Unloading and Storage Areas" described in Figure 11-4 in the Part B application. If the area is used for storage, this is one more reason secondary containment meeting the regulatory requirements for hazardous waste container storage of California Code of Regulations, title 22, section 66264.175 should be constructed for the area.*

COMMENT 1-21 by CBE (Truck Loading and Unloading Activities): *DTSC must add a narrative to the permit that describes both the truck loading/unloading activities and the loading/unloading areas, as other permits do.*

POSITION: I support these sections of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then it should be made clear exactly what activities are allowed to occur in each area of the facility and secondary containment measures of considerable scope should be required with review and enforcement in concert with the City of Los Angeles.
- Population and housing resources in the area are significant, with a number of apartment and housing units located only .25 miles away from the project site on Olympic Boulevard, north of the project site. Additionally there are more than a dozen schools within a one-mile radius, along with places of worship, and a number

of public facilities. Future housing and residential uses, including the Sears building, have been identified by the Community Redevelopment Agency within the project area as a target site for residential / mixed-use development.

- As mentioned above, the Los Angeles River, through the LA River Master Plan, will undergo a tremendous revitalization in the next decades, represented by many millions of dollars of funding to reinvigorate the river's corridors, encourage connectivity, open space and utilization of river resources.
- An environmental disaster at this location would have significant impact on Boyle Heights and the region at-large and would create an unprecedented demand on the resources of the City of Los Angeles' life safety services.
- During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.
- Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
- With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner. The idea that they should be allowed storage of a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents for a longer time than is considered normal throughout the state is unacceptable.
- Title 22 of the California Code of Regulations Section 66264.51 - 66264.56 requires a Contingency Plan and Emergency Response Procedures. The ISOCI emergency response protocol as outlined in its Project Description includes emergency response service from the Los Angeles Police Department and Los Angeles Fire Department.
- LAFD Fire Stations # 17, 14, 25 and 4 are listed as the relevant emergency responders for the ISOCI facility and the Hollenbeck Police Station is listed for the LAPD. Indeed, the City of Los Angeles would most certainly be required to provide the first and most critical responders in the event of a spill or serious accident.
- In fact in its own RESPONSE TO COMMENTS FINAL ENVIRONMENTAL IMPACT REPORT dated December 2006, on page 195, in response to a comment raising

the concern about an evacuation procedure and timing for the safe evacuation of nearby schools, businesses and residents in the event of a spill, the DTSC offers response 17-2 which indicates evacuation plans are outside the scope of the DTSC's jurisdiction and directs the concerned commenter to contact the Los Angeles Fire Department for further information.

- The DTSC acknowledges that the expanded facility could experience one truck spill every six years. DTSC should do everything in its power to ensure that environmental incidents are not experienced due to the proposed facility operation / expansion.

COMMENT 1-22 by CBE (Segregation of Incompatible Wastes):

The permit must be amended to include a condition specifying how ISOCI will comply with the requirements of California Code of Regulations, title 22, section 66264.177, which requires segregation of incompatible wastes.

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then testing MUST be done before commingling of the waste oil and enforceable conditions must be in place to ensure that dilution does not occur.
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River and mismanagement of wastes and chemicals could have a devastating impact on the community and the region.
- DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion.

COMMENT 1-26 by CBE (Staging of Hazardous Waste Containers): *DTSC must scrutinize ISOCI's hazardous waste container management practices in greater detail and amend the permit to include a description of authorized staging practices for hazardous waste containers.*

POSITION: I support these sections of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then very specific hazardous waste container management practices including staging practices should be required with review and enforcement in concert with the City of Los Angeles.
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River and mismanagement of containers waste and chemicals could have a devastating impact on the community and the region.
- DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion.

COMMENT 1-27 by CBE (Storage Tank Assessment): DTSC must amend the permit to require ISOCI to inspect and certify its tanks every three years by a professional engineer. DTSC has included a special permit condition requiring tank assessment every five years in accordance with the API 653 standard but it does not require that inspection be certified by a professional engineer. DTSC also has not explained the basis for selecting the 5 year interval. The special condition must be revised to require certification by a California registered professional engineer with a confined space certification.

POSITION: I support these sections of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then ISOCI must be required to inspect and certify its tanks every three years and have this inspection / certification conducted by a professional engineer.
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River and mismanagement of tanks and containers waste and chemicals could have a devastating impact on the community and the region.
- ISOCI has a track record of non-compliance, making the inspection and certification of its tanks even more important.
- During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air

emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.

- Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
- With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner, much less a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents.
- DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion which includes regular and frequent monitoring of tanks by conducted and certified by a professional engineer.

COMMENT 1-30 by CBE (Wastewater Treatment System): *The description of waste streams to be treated by the Waste Water Treatment System (WWTS) in the permit is inconsistent with the description in the HRA. "Oil containing liquid waste" is one of the waste streams going to the WWTS, which can include PCB's. DTSC must ensure that PCB's are prevented from entering the WWTS. Based on the waste codes to be accepted by the WWTS, it appears that it should be subject to Clean Water Act requirements under the definition of "centralized waste treatment facility" See 40CFR437.20, et seq. The permit must be amended to specifically require ISOCI to comply with any applicable pre-treatment standards established by Clean Water Act regulations.*

POSITION: I support this section of the appeal by CBE.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then Polychlorinated Biphenyls (PCBs) must not be allowed to enter the Waste Water Treatment Streams (WWTS), and the WWTS should be subject to Clean Water Act requirements.

- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River.
- PCBs in the Waste Water Treatment Streams and any other violation of the Clean Water Act could have a devastating impact on the community and the region.
- DTSC should do everything in its power to ensure that environmental incidents and hazardous exposure are not experienced due to the proposed facility operation / expansion.

COMMENT 3-1 by ISOCI: *Petitioner states that the requirement in the draft permit for PCB testing on each truck-to-receiving tank transfer of used oil is unnecessary and establishes a precedent which would pose an obstacle to the routine collection and transportation of used oil in California. Special Condition 2(b) on page 52 of the Final Permit requires that information sheets and waste profile forms shall include results for PCBs for all incoming loads. This requirement should be modified.*

POSITION: I OPPOSE this section of the appeal by ISOCI.

SUPPORTING STATEMENT OF REASONS:

- I oppose the permit altogether, but if the permit is granted, then each truck-to-receiving tank transfer of used oil MUST be tested for Polychlorinated Biphenyls (PCBs).
- This facility is in direct proximity to a densely populated residential and commercial community and is in direct proximity to the Los Angeles River and mismanagement of PCBs in waste could have a devastating impact on the community and the region.
- Routine and regular monitoring of each and every transfer is necessary to ensure the health and well-being of the people of the City of Los Angeles.
- ISOCI has a track record of non-compliance, making the monitoring of all shipments for PCB's even more important.
- During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.

- Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
- With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner, much less a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents.

COMMENT 3-2 by ISOCI: *Special Condition 1(b) on page 52 of the Final Permit, the closure cost estimate (CCE), represents an erroneous application of the law. The CCE is based on an actual quote from a third-party contractor. DTSC used one or more software programs to develop its estimate.*

POSITION: I OPPOSE this section of the appeal by ISOCI.

SUPPORTING STATEMENT OF REASONS:

- The Closing Cost Estimate (CCE) even as provided is inadequate. Both existing and proposed operations, stated in special condition 1 of the Permit, are insufficient.
- One estimate (claimed by ISOCI) and a software projection is not sufficient to determine a reliable closure cost estimate.
- The CCE also does not list all facilities permitted to handle waste generated during closure of the facility.

COMMENT 3-3 by ISOCI: *Special Condition 2(f) on page 53 of the Final Permit, requiring that all waste profiles shall be analyzed by a certified laboratory on an annual basis. This requirement is unnecessarily burdensome and costly to generators, especially those who conduct auto and truck repair and maintenance services and produce used oil and spent antifreeze.*

POSITION: I OPPOSE this section of the appeal by ISOCI.

SUPPORTING STATEMENT OF REASONS:

- ALL waste profiles should be analyzed by outside laboratory services at least once per year to ensure compliance.
 - Ensuring that waste analysis is regularly conducted by trained, professional laboratory personnel is important to ensuring the environmental security of the community surrounding this facility and cost to the facility for the protection of health and safety should not be a consideration.
 - ISOCI has a track record of non-compliance and should be required to have all analysis conducted by an independent laboratory to ensure compliance.
 - During inspections conducted May of 1992, February 1993, September 1993 and July 1994, ISOCI was cited for violations which included non-compliance with air emissions standards for equipment leaks; failure to test all recycled oil using an approved method; and operating with materials outside the scope of their permit.
 - Furthermore, an RCRA Facilities Assessment conducted in 1994 had concluded the facility had contaminated soil from leaks in two locations. The ISOCI entered into a consent agreement with DTSC on April 12, 1996 to make corrections, and when ISOCI was re-inspected on April 23, 1996, ISOCI was cited for five other violations including failure to provide adequate secondary containment; not performing leak tests on tanks; and storing hazardous waste beyond the time allowed.
 - With significant compliance issues on their record as a simple oil and anti-freeze recycling facility, it is clear ISOCI is not equipped to handle these toxins in a safe manner, much less a significantly wider range of hazardous and toxic materials including hazardous wastewater, sludge, and a myriad of other chemical contaminants which are known to be hazardous, cancer-causing agents.
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MARSHA BROWN
PRESIDENT

PEDRO BIRBA
VICE-PRESIDENT

VAN AMBATIELOS
HELENA JUBANY
ELENORE WILLIAMS



ANDREW A. ADELMAN, P.E.
GENERAL MANAGER

RAYMOND CHAN
EXECUTIVE OFFICER

ANTONIO R. VILLARAIGOSA
MAYOR

October 15, 2007

Industrial Service Oil Company Appeal

//original signed by//

3 Action Branch
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8800 Cal Center Drive, MS R1-2
Sacramento, CA 95826

Industrial Oil Services Company Inc. at 1700 Soto Street

The Department of Building and Safety of the City of Los Angeles has become aware of the proposed expansion of Industrial Service Oil Company, Inc., a facility located at 1700 South Soto Street in Los Angeles, which processes used oil and other hazardous materials. This letter is for the purpose of clarifying the requirements in the Planning and Zoning Code that this facility must comply with. The subject site is located on a lot zoned M3 identified as "Hazardous Waste Property/Border Zone Property".

Section 12.24.U10 of the Planning and Zoning Code requires Conditional Use approval by the City of Los Angeles Planning Commission for Hazardous Waste Facilities in the M2 and M3 Zones where the principal use of the land is for the storage and/or treatment of hazardous waste as defined in Section 25117.1 of the California Health and Safety Code. Approval by the State of California Department of Toxic Substances Control (DTSC) will not affect required compliance with the City's zoning laws or the City's authority to enforce its laws.

Further, Section 12.26 requires a building permit and a Certificate of Occupancy issued by this Department before land is used or occupied or a building is built or altered. No permit pertaining to the use of land or buildings shall be issued unless the application for the permit has been approved by the Department of Building and Safety as to conformance of said use with the provisions of the Planning and Zoning Code. This can only occur after the Planning Commission has granted a Conditional Use approval.

If you have any questions, please call Mr. Ken Gill, Sr. Structural Engineer of my staff at (213) 482-0473.

//original signed by//

HECTOR BUITRAGO
Assistant General Manager
Engineering Bureau Chief
Department of Building and Safety

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

MICHAEL LOGRANDE
ACTING CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

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DANIEL GREEN
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LINN WYATT
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**DEPARTMENT OF
CITY PLANNING**

S. GAIL GOLDBERG, AICP
DIRECTOR

**OFFICE OF
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200 N. SPRING STREET, 7TH FLOOR
LOS ANGELES, CA 90012
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January 19, 2007

Industrial Service Oil Company, Inc.
1700 South Soto Street
Los Angeles, CA 90023

Jose Kou, Chief
California Environmental Protection Agency
Department of Toxic Substances Control
Southern California Permitting and Corrective Action Branch
1011 North Grandview Avenue
Glendale, CA 91201

**HAZARDOUS WASTE FACILITY PERMIT FOR INDUSTRIAL SERVICE OIL
COMPANY, INC. – 1700 SOUTH SOTO STREET, LOS ANGELES, CA (EPA ID NO.
CAD099452708)**

The Los Angeles Department of City Planning was recently made aware of the final decision by the Department of Toxic Substances Control (DTSC), effective January 20, 2007 unless appealed, for operations at 1700 South Soto Street. The decision granted the Industrial Service Oil Company, Inc. (ISOCI), a Hazardous Waste Facility Permit to continue, expand and modify its current facility operations including an increase in production capacity and the types of waste managed.

Please be advised that the proposed facility expansion has not received a discretionary local land use approval as required pursuant to Section 25199 *et seq* of the California Health and Safety Code. It is our understanding that the proposed project is undertaken "for the purpose of significantly expanding or modifying an existing hazardous waste facility" as defined by Section 25199.1(b), thereby making the project subject to a local land use agency decision in accordance with procedures set forth under Section 25199.7 of the Health and Safety Code and Section 12.24-U,10 of the Los Angeles Municipal Code. The latter requires a Conditional Use Permit for hazardous waste facilities located in the M2 and M3 Zones. A copy of that Municipal Code provision is attached to this letter for your reference.

ISOCI filed a conditional use to modify and modernize its facility on August 1, 1996 under City Plan Case No. 1996-0288-CU. However, no action was taken by the applicant subsequent to a Planning Department letter dated March 12, 1997 advising the application radius map and notification list be updated in accordance with



AN EQUAL EMPLOYMENT OPPORTUNITY – AFFIRMATIVE ACTION EMPLOYER



Department policy. In a final written communication dated December 20, 2004, the 1996 case was received and filed, and the Department informed the applicant that it would be necessary to file a new application and pay the required fees to pursue the matter in the future. Further, the 1996 application did not include the additional 2.64 acre parcel, which ISOCI acquired in December 2003, located south of the existing facility's 2.7 acre parcel. The additional parcel is described in the subject Hazardous Waste Facility Permit and included on the site plan, delineated as "ISOCI Vacant Property (For Future Use)".

It is also my understanding that ISOCI had meetings in 2005 with a Planning Department Entitlement Manager and the Planning Deputy from Council District 14, during which the conditional use requirements of Municipal Code Section 12.24-U,10 were discussed, but no application or further contact ensued.

We are concerned that the proposed facility has not been granted any local land use approval as required by State law and the Municipal Code.

Should you have any questions regarding this matter, please contact Larry Friedman at (213) 978-1225

//original signed by//

MICHAEL LOGRANDE
Acting Chief Zoning Administrator

ML:LF:Imc

Attachment: LAMC Section 12.24-U,10

cc: Councilmember Jose Huizar, 14th District
S. Gail Goldberg, Director of Planning
Jessica Wethington McLean, Planning Director, 14th District
Steve Valenzuela, Community Redevelopment Agency
Julia Stewart, Community Redevelopment Agency
Dan Weissman, Community Redevelopment Agency
Allan Plaza, P.E., Unit Chief, Department of Toxic Substances Control
~~Steve Rounds, P.E., Project Manager, Department of Toxic Substances Control~~